

HOUSE BILL NO. 84

INTRODUCED BY NEWMAN

BY REQUEST OF THE DEPARTMENT OF JUSTICE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT ~~ELIMINATING MITIGATED DELIBERATE HOMICIDE AND~~
6 ~~PROVIDING THAT IF, AT THE SENTENCING STAGE FOLLOWING A DELIBERATE HOMICIDE~~
7 ~~CONVICTION, EITHER PARTY PROVES BY A PREPONDERANCE OF THE EVIDENCE THAT THE PERSON~~
8 ~~COMMITTED THE OFFENSE UNDER THE INFLUENCE OF EXTREME MENTAL OR EMOTIONAL STRESS~~
9 ~~FOR WHICH THERE IS A REASONABLE EXPLANATION OR EXCUSE, THE PERSON SHALL BE PUNISHED~~
10 ~~BY IMPRISONMENT IN THE STATE PRISON FOR A TERM OF NOT LESS THAN 2 YEARS OR MORE THAN~~
11 ~~40 YEARS; AMENDING SECTIONS 40-4-219, 40-15-102, 41-3-423, 41-5-206, 42-2-608, 45-1-205, 45-5-102,~~
12 ~~46-18-205, 46-18-219, 46-18-231, 46-18-1001, 46-23-502, 50-20-108, 50-20-112, 61-5-405, 61-11-203, AND~~
13 ~~72-2-813, MCA; REPEALING REVISING AND CLARIFYING THE OFFENSE OF MITIGATED DELIBERATE~~
14 ~~HOMICIDE TO RESOLVE THE CONFUSION THAT ARISES IN TRYING THE OFFENSE; AMENDING SECTION~~
15 ~~45-5-103, MCA; AND PROVIDING AN APPLICABILITY DATE."~~

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17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

21 **Section 1.** Section 45-5-103, MCA, is amended to read:

22 **"45-5-103. Mitigated deliberate homicide.** (1) A person commits the offense of mitigated deliberate
23 homicide when the person purposely or knowingly causes the death of another human being but does so under
24 the influence of extreme mental or emotional stress for which there is reasonable explanation or excuse. The
25 reasonableness of the explanation or excuse must be determined from the viewpoint of a reasonable person
26 in the actor's situation.

27 ~~(2) It is an affirmative defense that the defendant acted under the influence of extreme mental or~~
28 ~~emotional stress as provided in subsection (1). This defense constitutes a mitigating circumstance reducing~~
29 ~~deliberate homicide to mitigated deliberate homicide and must be proved by the defendant by a preponderance~~
30 ~~of the evidence.~~

